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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,106	12/27/2000	Cary Lee Bates	ROC920000234US1	6268

7590 12/27/2005

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EXAMINER

VU, NGOC K

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/749,106	BATES ET AL.	
	Examiner	Art Unit	
	Ngoc K. Vu	2611	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-31 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4 and 6-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonomi et al. (US 6,769,127 B1) in view of Pallakoff (US 6,269,343 B1).

Regarding claim 15, Bonomi teaches a system for transmitting programs to subscribers, comprising:

a database (within media management unit) containing subscriber groups each (see figures 7A & 8C; col. 24, lines 56-67);

a programming provider system (704 & 708) connected to the database and configured to:

receive, via a network communication, purchase orders for programs (i.e., video on demand) from a plurality of subscribers (110 in figure 1A, client machine in figure 3A) (see col. 23, lines 40-45; col. 23, lines 51-53);

determine a price for each purchase order (e.g., \$6.95 for each purchase order of movie "American Beauty" – see figure 15F), wherein each subscriber belonging to the subscriber group maintains an independent account with the programming provider whereby the subscriber pays the programming provider in order to receive paid for programming (see col. 23, lines 36-

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40 and 47-50; col. 35, lines 1-22), and wherein each subscriber may elect to purchase or not purchase the program (as illustrated in figure 15F).

Bonomi does not explicitly teach determining a price for each purchase order if more than a threshold number of subscriber purchasing the same program belong to a common subscriber group. However, Pallakoff discloses that a system suggests the current users to tell their friends or other users about the offer in order to get more buyers to join the buying group. For example, the system sends a message "We just need 5 more people to join the Buying Team in order get the soccer balls for only \$10 each. Tell your friends!" to the users (see col. 10, lines 43-56). That is, Pallakoff teaches determining a group discount price that requires a certain number of buyers must have joined the group and purchase the product/service. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Bonomi by including a group discount price if more than five customers to join the Buying Team to get a special offer as taught by Pallakoff in order to get more buyers.

Regarding claim 16, Bonomi teaches that the programming provider is at least one of cable provider and a satellite provider (see col. 11, lines 35-37).

Regarding claim 17, Bonomi teaches that the programming provider is connected to the plurality of subscribers by a network connection (see col. 8, lines 51-54).

Regarding claim 18, Bonomi teaches that the programs are view on-demand program (see col. 6, lines 31-33).

Regarding claim 19, Bonomi teaches that the programs are movie (see col. 35, lines 3-6).

Regarding claim 20, Bonomi teaches that the programs are entertainment events, e.g., movie, news...etc (see col. 35, lines 3-6).

Regarding claim 21, Bonomi teaches that the programs are transmitted at a predetermined time (scheduled) (see col. 7, lines 63-66).

Claim 1 recites similar limitations of claim 15, accordingly, claim 1 is rejected for the same reason as addressed. See rejection of claim 15 above.

Regarding claim 2, the combined teachings of Bonomi and Pallakoff include executing a pricing program (Bonomi: within 204 – see figure 7A; Pallakoff: within 13b in figure 1) for determining prices.

Regarding claim 3, Bonomi teaches preparing and sending an invoice to the subscribers for the program (see col. 32, lines 33-54).

Regarding claim 4, Bonomi as modified by Pallakoff teaches that threshold number of subscriber/buyers is greater than one (i.e., at least 5) and is some portion of all the subscribers/buyers of the subscriber group (see Pallakoff: col. 10, lines 46-49).

Regarding claim 6, the combined teachings of Bonomi and Pallakoff include providing, via a network communication, to the subscriber prior to the subscriber purchasing the program/product (see Bonomi: figure 15F; Pallakoff: col. 10, lines 46-49).

Regarding claim 7, Bonomi teaches that the purchase order indicates an intent of the subscriber to view the program at a future time (see figure 15F).

Regarding claim 8, Bonomi as modified by Pallakoff further teaches notifying at least one other subscriber in the subscriber group of the purchase order (see Pallakoff: col. 10, lines 49-56).

Regarding claims 9 and 10, Bonomi as modified by Pallakoff teaches receiving an electronic message indicating an intent of the subscriber to purchase the program and notifying, via a network communication (i.e., email) at least other subscriber in the subscriber group of the intent (see Pallakoff: col. 10, lines 43-49).

Regarding claims 11 and 12, Bonomi further teaches determining the price and determining whether the subscriber belongs to the subscriber group comprises accessing a subscriber database (see col. 37, lines 50-53 and figures 9A-9D).

Regarding claims 13 and 14, Bonomi further teaches processing a request to initiate a network dialog session with at least one other subscriber in the subscriber group, i.e., chat, and handling messages sent between subscribers participating in the network dialog session (see col. 33, lines 30-38).

Regarding claim 22, Bonomi teaches a system, comprising:

a plurality of signal processing units (110 in figure 1A, client machines in figures 1B & 3A) each associated with one of a plurality of subscribers, wherein the plurality of subscribers make up subscriber groups each including at least two subscribers; and programming provider system (704 & 708) connected to the signal processing units (see figure 7A) and configured to:

transmit fee-based programming events (on-demand programs) to the signal processing units (see col. 7, lines 63-66); and

determine a price for each purchase order (e.g., \$6.95 for each purchase order of movie "American Beauty" – see figure 15F), wherein each subscriber belonging to the subscriber group maintains an independent account with the programming provider whereby the subscriber pays the programming provider in order to receive paid for programming (see col. 23, lines 36-40 and 47-50; col. 35, lines 1-22), and wherein each subscriber may elect to purchase or not purchase the program (as illustrated in figure 15F).

Bonomi does not explicitly teach determining a price for each programming event according to a number of purchase orders for the same programming event received from subscribers belonging to a same subscriber group, wherein the price decreases in proportion to increasing orders from different subscribers belonging to the same subscriber group as recited

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in claim 22; and Bonomi does not explicitly teach determining a price for each purchase order if more than a threshold number of subscriber purchasing the same program belong to a common subscriber group further recited in claim 23.

However, Pallakoff discloses that a system suggests the current users to tell their friends or other users about the offer in order to get more buyers to join the buying group. For example, the system sends a message "We just need 5 more people to join the Buying Team in order get the soccer balls for only \$10 each. Tell your friends!" to the users (see col. 10, lines 43-56). That is, Pallakoff teaches determining a group discount price that requires a certain number of buyers must have joined the group and purchase the product/service. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Bonomi by including a group discount price if more than five customers to join the Buying Team to get a special offer as taught by Pallakoff in order to get more buyers.

Regarding claim 24, Bonomi teaches that the system comprises a database accessible by the programming provider system and containing a subscriber identifier (customer ID) for each of the plurality of subscribers and a subscriber group identifier (switch port ID) for each subscriber group (see figures 13A-B).

Regarding claim 25, Bonomi teaches that the plurality of signal processing units are configured to communicate messages via a communication network (see figures 1B & 3A).

Claim 26, see rejection of claim 16 above.

Claim 27, see rejection of claim 17 above.

Claim 28, see rejection of claim 18 above.

Claim 29, see rejection of claim 19 above.

Regarding claims 30 and 31, Bonomi as modified by Pallakoff teaches that the system sends emails to users to invite more people to join the Buying Team in order to get a special

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rate for product/service. The email contains the message "Tell your friends". This information can be displayed on any web page where the offers is displayed so that the people can type their friends email addresses to send an email message telling them about the offer and telling them how to join the Buying group (see col. 10, lines 46-56).

Allowable Subject Matter

4. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Ngoc K. Vu', with a long horizontal flourish extending to the right.

Ngoc K. Vu
Primary Examiner
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December 19, 2005